IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 597 (MS) OF 2006

Dharmendra Pant,
S/o B.N. Pant,
R/o Damua Dhunga,
Hydril Colony, Kathgodam,
District-Nainital. .....Petitioner.

Versus

1. Commissioner Workman Compensation/Deputy Labour Commissioner Kumaon, Haldwani, Nainital.
2. Ganga Devi W/o late Jogendra Singh,
3. Teerath Singh, S/o late Udai Ram, both resident of Village- Ramapur, Chaklua, Kaladhungi, Nainital.
4. Executive Engineer, P.W.D., Haldwani, District-Nainital. .....Respondents.

Dated: 18.05.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Syed Nadim, Advocate for the petitioner and Standing Counsel for the respondent no. 1.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 03./05.2006 passed by the Deputy Labour Commissioner, Uttaranchal, Haldwani in Claim Application W.C.A. 4 of 2003 under Workman Compensation Act by disallowing to adduce the evidence for proper adjudication of the case. Further prayer has been made for a writ of mandamus directing the respondent no. 1 to allow the application of the petitioner

seeking to produce the evidence for proper adjudication i.e. Annexure-4 to the writ petition.

Briefly stated, application under the Workmen Compensation Act has been filed being Case No. 4 of 2003 to the effect that on 18th December, 2002 the deceased Joginder Singh, who was the husband of the respondent no. 2 and son of the respondent no. 3 was engaged as a labour under the petitioner, who was the Contractor. On 18.12.2002, when he was cutting the land for the construction of the small bridge under the control of the petitioner all of a sudden a big part of mud fell down on the husband of the respondent no. 2 who died on the spot. A written statement has already been filed. During the proceedings of the case, he has filed an application on 3rd May, 2006 before the Commissioner Workmen Compensation Haldwani stating therein that few facts were not available to the petitioner and in order to check the correctness he wanted to file certain documents. The said application was dismissed on the same date. The presiding Officer has not only refused to place the documents but he has also struck off the defence of the petitioner completely.

In view of the aforesaid facts and circumstance, the interest of justice requires that let the opportunity be given to the petitioner to adduce the documents. The order dated 03.05.2006, therefore, cannot be allowed to stand. The same is set aside.

The matter is sent back for deciding it afresh in the light of the observations made above before the Presiding Officer, who shall give an opportunity to the petitioner to produce the documents and the same shall be disposed of within a period of four months from the date of presentation of the certified copy of the order.

Subject to the aforesaid observations, writ petition is disposed of. No order as to costs.

Copy of the order to be given within 24 hours.

(Rajesh Tandon, J.)

18.05.2006
Rathour